

No. 8772-4 Lab-76/27116.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIX of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Promain Limited, Mathura Road, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference 84 of 1976

between

THE WORKMEN AND THE MANAGEMENT OF M/S PROMAIN LIMITED,
MATHURA ROAD, FARIDABAD

AWARD

By order No. ID/FD/75/63824, dated 10th October, 1975 the Governor of Haryana, referred the following dispute between the management of M/s Promain Limited, Mathura Road, Faridabad and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether the workmen are entitled to the grant of dearness allowance linked with the cost of living index numbers ? If so, with what details ?
- (2) Whether the workmen are entitled to any revision in the existing wage structure ? If so, with what details ?

Shri Roshan Lal Sharma, appeared in this Tribunal on 30th July, 1976 as authorised representative for the workmen in response to the usual notices of reference sent to Shri Surinder Mohan, President/General Secretary of the union, C/o the farmer and on an objections raised by the management against his appearance on the ground that he had not been authorised by the workmen to appear for them he was specifically directed to produce the letter of authority authorising him to do so, on 11th August, 1976 the next date of hearing fixed in the case.

It is interesting to note that neither Shri Roshan Lal Sharma nor any of the workmen appeared before me on 11th August, 1976 with the result that exparte proceedings were taken up against the workmen and the exparte statement of Shri K. P. Aggarwal, authorised representative for the management was recorded in support of the settlement relied on by the management.

Shri K. P. Aggarwal a signatory of the settlement Exhibit M-1 as an attesting witness deposed that the six workmen representing the body of the workmen and Sarvshri D. N. Ahuja and E. A. S. Jairaj on behalf of the management signed the settlement Exhibit M-1 in his presence on 12th May, 1976 and that there was now no dispute between the parties requiring adjudication.

It would appear that none appeared for the workmen in the Tribunal despite service of notice of reference on the person who actually raised the demand on the management leading to this reference in his capacity as President/Secretary of the union. I under the circumstances have no option but to rely on the statement of Shri K. P. Aggarwal and hold that the parties arrived at an amicable mutual settlement Exhibit M-1 whereby the management agreed to Pay Rs. 10 P. M. to every production manual workman with effect from 1st April, 1974 in addition to the house rent allowance already drawn by him for a period of three years from the date of the settlement in consideration of the workmen undertaking not to raise any demands involving financial liabilities on them and their giving whole hearted cooperation in achieving optimum production and maintaining harmonious industrial relations and withdrawing all the demands leading to this reference.

I thus hold that there is now no dispute between the parties requiring adjudication and answer the reference while returning the award in terms of the settlement proved to have been arrived at between the parties.

Dated the 13th August, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana
Faridabad.

No. 979, dated the 16th August, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment, Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 16th August, 1976.

MOHAN LAL JAIN,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

No. 8374-4-Lab-76/27118.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the Management of M/s. Avon Services (Production and Agencies) (P) Ltd., Pali Road, Ballabgarh.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 122 of 1973

between

SHRI NATHI, WORKMAN AND THE MANAGEMENT OF M/S. AVON SERVICES (PRODUCTION AND AGENCIES) (P) LTD., PALI ROAD, BALLABGARH,

AWARD

By order No. ID/FD/73/32385, dated 12th July, 1973 the Governor of Haryana, referred the following dispute between the management of M/s. Avon Services, (Production and Agencies) (P) Ltd., Pali Road, Ballabgarh and its workman Shri Nathi to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Nathi is justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged that even though he had been appointed as a helper by the management on 24th December, 1964 on wages of Rs. 135/- per month, he was asked to do the work of a sweeper on 2nd March, 1973 by the management and on his declining to do the same they terminated his services the same day by disallowing him to discharge his normal duties and that he was thus legally entitled to reinstatement with continuity of service and full back wages.

The management pleaded,—*vide* written statement filed by them that the reference made to this Tribunal was bad in law for want of service on them of notice of demands and was otherwise premature in as much as they never terminated the services of the workman. On merits they stated that he had not been employed as a helper and that he was on the other hand in their service as a Sweeper and that he absented himself from duty.

The workman contended the plea of the management,—*vide* rejoinder filed by him and reiterated the allegations made by him with the result that the following issues were framed on pleadings of the parties *vide* order dated 1st February, 1974.

- (1) Whether the management has not terminated the services of the workman concerned and the dispute is premature ? (on management)
- (2) If issue No. 1 is not proved whether the demand the subject matter of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation ? If not, with what effect ? (on workman)
- (3) Whether the termination of services of Shri Nathi is justified and in order ? If not, to what relief is he entitled ?

I have heard the learned authorised representatives for the parties and seen the record. I decide the issues as under :—

Issue Nos. 1 and 3.—

These issues being interconnected shall be disposed of and decided by me together. Shri R. R. Shukla Manager, the lone witness of the management, admitted that Shri Nathi was required to work as a Sweeper and on his refusal to work as such he was not offered any alternative job. Shri Nathi, *vide* statement made by him as his own witness also admitted that he declined to work as a sweeper on being asked to do so by the management and that the later did not allow him to discharge his normal duties of a helper of washing and cleaning the press. It would thus appear from the plea of the parties and the admissions made by them that whereas the management insisted to take from Shri Nathi the work of a sweeper and declined to assign him any other job, the later persistently declined to work as a sweeper and offered to work as a helper. The sole question requiring determination under the circumstances would be in respect of the normal duties of Shri Nathi and the condition of his employment in this connection. In other words it shall have to be determined as to whether he was employed as a sweeper or as a helper in the capacity of a Filter Press Washer and in case of proof of his employment as a helper he would obviously be entitled to be reinstated on that job, in as much as the management admittedly declined to assign him this duty.

Reference in this connection be made to attendance card ex-W-2, admittedly issued by the management wherein he has been described as a Kamgar (workman) and attendance card Exhibit W-3, wherein the word Kamgar recorded against his designation is scored out and the word sweeper has been substituted indicating an over writing at some subsequent stage after 1st March, 1973 by the management in order to create evidence in their favour. Another important documentary evidence in favour of the workman is the leave book Exhibit W-1 of the period January, 1973 and February, 1973 granted to him by the management wherein he had been described as a Kamgar (workman) of the Filter Press Washing Department and Shri R. R. Shukla manager admitted all these documents. The later copy Exhibit M-8 admittedly sent by the management to Shri Nathi bears an averment that he was asked on 22nd March, 1973 to list the mud of Filter Press and that he declined to do so and this admission further supports the case of the workman that he was an employee of the Filter Press Washing Department.

The management brought on record application M-1 to M-6 alleged to bear the thumb impression of Shri Nathi and said to have been made by him to the management for grant of leave from time to time. In applications Exhibit M-1 dated 19th August, 1965, M-3, dated 3rd January, 1966 and M-4, dated 17th December, 1965 he has been described as a Jamadar and in application Exhibit M-2, dated 7th February, 1966 as a worker and in application Exhibit M-5 and M-6, dated 27th November, 1965 and 13th April, 1965 respectively as a Sweeper. None of these applications is admittedly in the hand writing of Shri Nathi and he is alleged to have only put his thumb impression there upon. There is no evidence on record leading to a definite conclusion of his having made these application with a knowledge that he had been described as a Jamadar or as a sweeper the rein. These documents were neither relied upon nor referred by the management in their written statement. The possibility of these documents being in genuine can not therefore be excluded. These applications therefore in my opinion do not constitute legal evidence sufficient to rebut the documentary evidence of the workman as referred to above particularly when the workman explained that he used to put his thumb mark on the application without knowing the contents thereof and there is no other evidence on record for the management to prove that he thumb marked the same with full knowledge of his description as a sweeper.

The workman examined Shri Sher Khan, W.W. 1, Akbar, W.W. 2, Musai, W.W. 3, Mohan Singh, W.W. 4, Nazir Mohd, W.W. 5, and Balbir W.W. 6, all employed as workmen with the management during the period of the employment of Shri Nathi. Each one of them deposed in unequivocal terms that Shri Nathi was employed and worked as a helper for cleaning the press. Nothing could be brought in cross-examination of these witnesses justifying the rejection of their evidence as false and the exists costs as such no reason on record to disbelieve them. I thus fully rely on their statement. In view of the overwhelming documentary and oral evidence led by the workmen is not possible to rely on the solitary statement of Shri R. R. Shukla that Shri Nathi had been employed as a sweeper and not as a helper in the Filter Press Washing Department.

The management did not admittedly bring on record the attendance register to enable the Presiding Officer to see the entries in respect of the designation of Shri Nathi therein for appraising the oral statement of Shri R.R. Shukla that he (Nathi) had been described therein as a weeper in the month of March, 1974, and April, 1972 and February, 1972 etc. The primary documentary evidence being thus withheld, the secondary oral evidence relating thereto can not legally be relied upon and considered from any angle there is ample overwhelming evidence on record establishing that Shri Nathi had been employed as a workman other than a sweeper in the Filter Press Washing Department and his normal duties were to wash the Press. The action of the management in declining to assign him such duties amounts to termination of his services without justification. I thus decide both these issues against the management.

Issue No. 2.

There is no direct evidence on record in favour of the workman in support of this issue on facts. I however, for the reasons stated by me in detail in my order dated, 10th October, 1975 made in reference entitled Shri S. C. Sethi, *versus* M/s. Kirloskar Oil Engines, Mathura Road, Faridabad, hold that it was no longer necessary

for the workman to raise a demand directly on the management and for the latter to reject it before the former taking up the matter to the Conciliation Officer in order to constitute an industrial dispute. The reference made to this Tribunal can not thus be said to be bad in law for want of direct demand on the management by the workman. I decide this issue accordingly.

The result is that the workman is entitled to be reinstated as a Helper in the Fitter Press Washing Department with duties of Washing the Press with continuity of service and full back wages. I hold accordingly and answer the reference while returning the award in these terms.

Dated the 9th August, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 952, dated the 9th August, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Dated the 9th August, 1976.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 7937-4Lab-76/27129.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s Electrophones, P. Box No. 15, Jagadhri Road, Ambala Cantt.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA
ROHTAK

Reference No. 40 of 1976

Between

SHRI RAM AVTAR, WORKMAN AND THE MANAGEMENT OF M/S. ELECTROFONES,
P. BOX NO. 15, JAGADHRI ROAD, AMBALA CANTT.

AWARD

By order No. ID/AMB/479-76/16031, dated 5th May, 1976 of the Governor of Haryana, the following dispute between the management of M/s Electrophones, Jagadhri Road, Ambala Cantt. and its workman Shri Ram Avtar, was referred to the court for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

“Whether the termination of services of Shri Ram Avtar was justified and in order ? If not, to what relief is he entitled ?”

The parties put in their appearance in this Court on 23rd July, 1976 in response to the usual notices of reference sent to them.

Ram Avtar, workman made a statement that he had received in cash Rs. 1771.—*vide* settlement Ex. M. 1 entered into between the parties, on 26th March, 1976 under section 18(1) of the Industrial Disputes Act in consideration of the demands raised by him on the management and that no other claim had been left and the demands be deemed as satisfied.

It would, thus, appear from the statement of the workman, that the demands raised by him on the management leading to this reference have been fully satisfied and that now there is no dispute between the parties requiring adjudication.

I, hold, accordingly and answer the reference while returning the award in these terms.

Dated : 27th July, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1750, dated 31st July, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 8471-4Lab-76/27122.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Mukat Brothers Industrial Works, Ward No. 9, Ballabgarh, Dadri.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 180 of 1975
between

SHRI MUNNA LAL, WORKMAN AND THE MANAGEMENT OF M/S MUKAT BROTHERS INDUSTRIAL WORKS, WARD NO.9 BALLABGARH.

AWARD

By order No. ID/FD/883-A-75/70097, dated 3rd December, 1975 the Governor of Haryana, referred the following dispute between the management of M/s. Mukat Brothers Industrial Works, Ward No. 9 Ballabgarh and its workman Shri Munna Lal to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Munna Lal was justified and in order ? If, not, to what relief is he entitled ?

Whereas the management put in their appearance before me on 22nd January, 1976 in response to the usual notices of reference sent to them, the workman absented himself on that date despite service on him of such a notice with result that *ex parte* proceedings were taken up against him, and the management were directed to adduce their *ex parte* evidence.

Shri Mukat Lal one of the partners of M/s Mukat Brothers Industrial Works, appeared as a witness in *ex parte* evidence and deposed that the workman joined their service in January, 1974 and continued to work till 31st March, 1975 whereafter he absented himself from duty and received from them on 17th April, 1975 his dues in full and final satisfaction of all his claim,—*vide* receipt copy Ex. M-I duly signed by him.

I see no reason to disbelieve the statement of Shri Mukat Lal particularly when the proceedings against the workman are *ex parte* and he has taken no care to pursue the demand raised by him on the management. I therefore, relying on his statement hold that the workman received all his dues on 17 April, 1975 from the management,—*vide* receipt copy Ex. M-I in full and final satisfaction of all his claims including that of his reinstatement and that there is now no dispute between the parties requiring adjudication. I answer the reference while returning the award in these terms.

Dated, the 11th August, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 969, dated 12th August, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated, the 12th August, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

P. P. CAPRIHAN,
Commissioner and Secretary to Government, Haryana,
Labour and Employment Departments.